

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOEL CANIZALES-ARAUJO,

Defendant.

8:03CR311

MEMORANDUM AND ORDER

This matter is before the court on the defendant's motion for a sentence reduction under 18 U.S.C. § 3582(c)(2), [Filing No. 81](#). The government opposes the reduction. [Filing No. 82](#). The court held a hearing on the motion on April 22, 2016. The defendant was represented by counsel at the hearing, but was not present.

This is a motion filed pursuant to Amendment 782 to the United States Sentencing Guidelines, (sometimes called the "drugs minus two" or the "2014 drug guidelines amendment") which reduces offense levels assigned in the Drug Quantity Table by two levels, resulting in lower guideline ranges for many drug trafficking offenses. See U.S.S.G. § 1B1.10(d) & (e)(1) (Nov. 1, 2014). The Sentencing Commission has given retroactive effect to the amendment. *Id.*, U.S.S.G., App. C (Supp.), amendment 788 at 87-88.

The parties agree that the defendant's amended Guidelines range is 168 to 210 months. See [Filing No. 82](#), Stipulation. The United States Office of Probation ("Probation") has determined that the defendant is eligible for a 42-month reduction in his sentence under the retroactive amendment, See [Filing No. 79](#), 2014 Retroactive Sentencing Worksheet at 1.

The government opposes a sentence reduction pursuant to 18 U.S.C. § 3582(c)(2) and 18 U.S.C. § 3553(a), based on his conduct at the BOP.

In consideration of the factors set out in 18 U.S.C. § 3553(a), the court finds that a sentence reduction will satisfy the goals of sentencing in this case. The court has considered the nature and circumstances of the offense, the characteristics of the offender, public safety, deterrence, and the sentencing guidelines in making this decision. In connection with public safety, the court has reviewed the defendant's record while in prison and considered whether a reduction in defendant's sentence poses a danger to any person or to the community. For the reasons stated on the record at the hearing, the court finds a sentence of 168 months is appropriate in this case.

IT IS ORDERED THAT:

1. The defendant's motion for a sentence reduction ([Filing No. 81](#)) is granted.
2. An Order Regarding Motion For Sentence Reduction Pursuant To 18 U.S.C. § 3582(C)(2) will issue this date.

Dated this 25th day of April, 2016.

BY THE COURT:

s/ Joseph F. Bataillon
Senior United States District Judge